

# APPENDIX

## PUBLIC LAWS OF THE 107TH CONGRESS, SECOND SESSION, PROVIDING OR AMENDING CERTAIN MARITIME LAWS

### **ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2002.**

Section 402(a) of Public Law 107-173, approved May 14, 2002 (116 STAT 543, 557), amended Section 231 of the Immigration and Nationality Act (8 U.S.C. 1221), to: (1) require commercial aircraft or vessels arriving at, or departing from, the United States to provide United States border officers (as defined by this Act) with specified passenger, other occupant, and crew manifest information; (2) prohibit carrier entry until such information has been provided; (3) provide monetary and nonentry penalties for noncompliance; (4) require electronic manifest transmission by January 1, 2003; and (5) provide the Attorney General with waiver authority. 8 U.S.C. 1221, is set forth at page 529, *supra*.

**SUPPLEMENTAL APPROPRIATIONS ACT FOR FURTHER RECOVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES.** Public Law 107-206, approved August 2, 2002 (116 STAT 820), contains the following provisions of particular interest.

**Transportation Security Administration.** At 116 STAT 879, provides additional funds for the Transportation Security Administration: "for emergency expenses to ensure transportation security, \$3,850,200,000, to remain available until expended: . . . . Provided further, That of the total amount provided herein, the following amounts are available for obligation only for the specific purposes below: . . . . (2) Port security activities, \$125,000,000, of which \$105,000,000 shall be distributed under the same terms and conditions as provided for under Public Law 107-117 and of which \$20,000,000 shall be used for developing and conducting port incident training and exercises."

**Vessel Documentation.** Section 1103 of Public Law 107-206 (116 STAT 884), provides: "SEC. 1103. Title II of Division C of Public Law 105-277 is amended by striking "of more than 750 gross registered tons" in each place it appears, and inserting in lieu thereof, "of more than 750 gross registered tons (as measured under chapter 145 of title 46) or 1,900 gross registered tons as measured under chapter 143 of that title)". This provision has been implemented by an amendment to 46 U.S.C. 12102(c)(5), set forth on page 203, *supra*, as footnoted.

**CODIFYING TITLE 40, UNITED STATES CODE.** Public Law 107-217, approved August 21, 2002 (116 STAT 1062), revised, codified, and enacted without substantive change the general and permanent laws of the United States related to public buildings, property, and works, as title 40, United States Code, "Public Buildings, Property, and Works." Excerpts from Title 40, contain the following provisions of particular interest.

Exclusion of Naval Vessels. 40 U.S.C. 102(9)(B) (116 STAT. 1064), set forth at page 353, supra excludes "naval vessels that are battleships, cruisers, aircraft carriers, destroyers, or submarines" from the definition of "property."

Application to Federal Property and Administrative Services Act of 1949. 40 U.S.C. 111 (116 STAT 1065), set forth at page 353, supra, provides that the words "this subtitle" are deemed to refer also to 40 U.S.C. 113 and 40 U.S.C. 558(a)

Marad Exclusion. 40 U.S.C. 113(e) (116 STAT 1066), set forth at page 354, supra, provides: "(e) Other Limitations.- Nothing in this subtitle impairs or affects the authority of- . . . (15) the Maritime Administration with respect to the acquisition, procurement, operation, maintenance, preservation, sale, lease, charter, construction, reconstruction, or reconditioning (including outfitting and equipping incidental to construction, reconstruction, or reconditioning) of a merchant vessel or shipyard, ship site, terminal, pier, dock, warehouse, or other installation necessary or appropriate for carrying out a program of the Administration authorized by law or nonadministrative activities incidental to a program of the Administration authorized by law, but the Administration shall, to the maximum extent it considers practicable, consistent with the purposes of its programs and the effective, efficient conduct of its activities, coordinate its operations with the requirements of this subtitle and with policies and regulations prescribed under this subtitle".

Marad Disposal of Surplus Vessels. 40 U.S.C. 548 (116 STAT 1090), set forth at page 354, supra, provides: "The Maritime Administration shall dispose of surplus vessels of 1,500 gross tons or more which the Administration determines to be merchant vessels or capable of conversion to merchant use. The vessels shall be disposed of in accordance with the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.), and other laws authorizing the sale of such vessels."

Port Development Property. 40 U.S.C. 554 (116 STAT 1100), set forth at page 354, supra, provides authority for the assignment to the Secretary of Transportation for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary of Transportation recommends as needed for the development or operation of a port facility.

**Disposal of Dredge Vessels.** 40 U.S.C. 556 (116 STAT 1102), set forth at page 355, supra, generally provides for the disposal of dredges surplus to the needs of the Corps of Engineers. Such disposal can be accomplished through (1) sale or lease to (a) a foreign government as part of a Corps of Engineers technical assistance program; (b) a federal or state maritime academy for training purposes; or (c) a non-federal public body for scientific, educational, or cultural purposes; or (2) through sale solely for scrap to foreign or domestic interests. Such a surplus dredge can not be used for "dredging activities within the United States."

**Donation of Forfeited Vessels.** 40 U.S.C. 558 (116 STAT 1103), set forth at page 356, supra, generally provides that a vessel forfeited to the Government may be donated to a qualified educational institution with a commercial fishing vessel safety program or other vessel safety, education and training program.

**Disposition of Abandoned or Forfeited Personal Property.** 40 U.S.C. 1306 (116 STAT 1134),

set forth at page 357 , supra, sets forth the procedure for the disposition of abandoned or forfeited personal property. 40 U.S.C. 1306(a)(2) includes "vessels" within the definition of "property." 40 U.S.C. 1306(h)(2) provides: "(2) OTHER LAWS NOT REPEALED. This section does not repeal any other laws relating to the disposition of forfeited or abandoned property, except provisions of those laws directly in conflict with this section which were enacted prior to August 27, 1935."

**Waiver for Contracting Marad Vessels.** 40 U.S.C. 3134 (116 STAT. 1149), set forth at page 357, supra, authorizes the Secretary of the Army, Navy, Air Force, and Transportation to waive certain contracting requirements with respect to the construction, alteration, or repair of vessels, aircraft, etc.

**TRANSFER OF NAVAL VESSELS.** Section 1701 of Public Law 107-228, approved September 30, 2002 (116 STAT 1350, 1463), the Foreign Relations Authorization Act, Fiscal Year 2003, authorizes the President, for a period of two years, to transfer specified naval vessels to certain foreign countries. Repair and refurbishment work is to be done in U.S. shipyards. This provision is set forth at page 384, supra.

**DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2003.** Public Law 107-248, approved October 23, 2002 (116 STAT. 1519), contains the following provisions of particular interest.

**Navy Shipbuilding and Conversion.** At 116 STAT 1529, 1530, provides \$9,032,837,000 for Navy shipbuilding and conversion, to remain

available until September 30, 2007. Construction in foreign yards is prohibited. This provision is set forth at page 381, supra.

**National Defense Sealift Fund.** At 116 STAT 1533, appropriates \$942,629,000, of which \$8,500,000 is earmarked to finance the cost of constructing additional sealift capacity. This provision, set forth at page 366, supra, contains the usual Acquire American provisions.

**Buy American/Shipboard Anchor and Mooring Chain.** Section 8016 of Public Law 107-248 (116 STAT. 1540), retains a comprehensive Buy American provision carried in previous years.

**Buy American/Carbon, Alloy or Armor Steel Plate.** Section 8030 of Public Law 107-248 (116 STAT 1543), retains a comprehensive Buy American provision carried in previous years.

**Competition between DOD Maintenance Activities and Private Firms.** Section 8032 of Public Law 107-248 (116 STAT 1543), generally authorizes such competition for DOD to acquire the modification, depot maintenance, and repair of vessels and other items. The provision, retained from previous years, is set forth at page 385, supra.

**Reciprocal Defense Procurement MOU Buy American.** Section 8033 of Public Law 107-248 (116 STAT 1544), generally provides for the Buy American ramifications of a breach of the MOU. The provision is retained from previous years.

**Buy American/Roller Bearings.** Section 8060 of Public Law 107-248 (116 STAT 1550), provides a Buy American clause for such items. The provision is retained from previous years.

Medical Supplies/Samoa. Section 8061 of Public Law 107-248 (116 STAT 1550), continues the free DOD transportation of such supplies to Samoa and the Indian Health Service when it is in conjunction with a civil-military project. The provision, retained from previous years, is set forth at page 386, *supra*.

Navy Shipyards/Manufacturing Extension Program. Section 8063 of Public Law 107-248 (116 STAT 1550), a provision retained from previous years, provides: "Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act." This provision is set forth at page 394, *supra*.

DOD Export Loan Guarantee Program/Ceiling. Section 8067 of Public Law 107-248 (116 STAT 1551), a provision retained from previous, years, is set forth at page 377, *supra*.

TAKE Class/Buy American. Section 8083 of Public Law 107-248 (116 STAT 1555), is a provision modified and retained from previous years that generally requires the Navy to acquire U.S. manufactured diesel engines and propellers.

**USS GREENEVILLE/EHIME MARU.** Section 8102 of Public Law 107-248 (116 STAT 1561) grants blanket authority for the Navy to settle and pay all admiralty claims in connection with this accident.

Sale of Navy Dry Dock AFDL-47. Section 8138 of Public Law 107248 (116 STAT 1569) mandates the sale of Navy dry-dock AFDL-47, to Detyens Shipyards, Inc. This provision is set forth at page 398, *supra*.

**National Defense Sealift Fund\NDSW Study.** Section 8142 of Public Law 107-248 (116 STAT 1569), generally provides \$10 million to implement the recommendations from this study. Section 8142 is set forth at page 367, *supra*.

### **Loan Guarantees/Commercial Reusable In-Space Transportation.**

Title IX of Public Law 107-248 (116 STAT 1573), provides for the Commercial Reusable In-Space Transportation Act of 2002. The Conference Report (H. Rpt. 107-732) to accompany H.R. 5010, provides at page 330: "The conferees included a new title IX which provides the Secretary of Defense the authority to make loan guarantees to eligible U.S. commercial providers for the purpose of producing commercial reusable inspace transportation services or systems." This provision is set forth as a footnote on page 377, *supra*

### **MARITIME TRANSPORTATION SECURITY ACT OF 2002.**

Public Law 107-295, approved November 25, 2002 (116 STAT 2064), contains the following provision of particular interest.

#### **TITLE I - MARITIME TRANSPORTATION SECURITY.**

**Port Security.** Section 102 of Public Law 107-295 (116 STAT 2068), adds to Title 46, a new Subtitle VI - Miscellaneous, to establish a comprehensive national system of transportation security enhancements. This provision commences at page 532, *supra*.

Chapter 701, consisting of sections 70701 through 70117, contains comprehensive provisions related to port security. Of particular interest is 46 U.S.C. 70107 (116 STAT 2075), set forth at page 541, *supra*, directing the Secretary of Transportation, acting through the Maritime Administrator, to establish a grant program for making a fair and equitable allocation among port authorities, facility operators, and State and local agencies required to provide security services of funds to implement Area Maritime Transportation Security Plans and facility security plans. The Conference Report to accompany S. 1214 (H. Rpt. 107777), provides at page 82:

"Inter-American Port Security Training Program (IAPSTP) is administered by the U.S. Maritime Administration under the authority of the U.S. Department of State. Currently, the program works with the Organization of American States to transfer technical information and security expertise related to port security and to develop cooperative regional efforts among the public and private sector that protect the flow of international maritime trade. The program also works with member nationals to develop recommendations pertaining to strategic regional approaches to seaport crime, international port and cargo security standards, and other multilateral cooperative endeavors. The Conferees believe that expanding IAPSTP to include nations that lack adequate port security measures will help increase worldwide understanding of maritime and port security. Expansion of the program to other nations can lead to increased multilateral approaches to improving port and cargo security."

**Extension of Seaward Jurisdiction.** Section 104 of Public Law 107295 (116 STAT 2085), amended 50 U.S.C. 195, to extend the territorial jurisdiction of the United States from 3 miles to 12 miles offshore, and provide a civil penalty of \$25,000 for each violation.. This provision is set forth at page 552, *supra*.

**Extension of Deepwater Port Act to Natural Gas.** Section 106 of Public Law 107-295 (116 STAT 2086), amended various provisions of the Deepwater Ports Act of 1974 (33 U.S.C. 1501 et seq.), to permit a deepwater port to be licensed for purposes of natural gas importation, storage and handling, regardless of whether the port is also used for the transportation of crude oil for this purpose. The Conference Report (H. Rpt. 107-777), provides at page 86:

"The Deepwater Port Act, as enacted in 1974, established a system for permitting and licensing deepwater terminals for the handling and transfer of oil in water beyond the territorial limits of the U.S. The Deepwater Port Modernization Act, enacted in 1996, streamlined the regulation of these facilities, repealed the previous limitation on uses of a deepwater port, and authorized uses not inconsistent with the purposes of the Act. Under the current law and applicable regulations, an existing deepwater port may be authorized to transport commodities other than oil, including natural gas, upon the approval of any necessary amendments to its operations manual. Section 106 of the Conference substitute allows a deepwater port to be licensed for purposes of natural gas importation, storage and handling, regardless of whether the port is also used for the transportation of crude oil.

"The Conferees do not intend these amendments to the Deepwater Port Act of 1974 to apply to the production or gathering of oil or natural gas from the Continental Shelf or facilities used exclusively in the production or gathering of oil or natural gas from the Continental Shelf."

**Assignment of Coast Guard and Merchant Marine Personnel as Sea Marshals.** Section 107(a) of Public Law 107-295 (116 STAT 2088) amended Section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)), to allow for the dispatch of properly trained and qualified armed Coast Guard personnel on facilities and vessels to deter or respond to acts of terrorism or transportation security incidents. Section 107(b) requires the Secretary of the department in which the Coast Guard is operating to report to Congress on the use of non-Coast Guard personnel as sea marshals. This could include "documented United States Merchant Marine personnel," and "the possibility of utilizing the United States Merchant Marine Academy, State maritime academies, or Coast Guard approved maritime industry schools in the United States, to provide training." This provision is set forth at page 554, *supra*.

**Maritime Security Professional Training at Maritime Schools.** Section 109 of Public Law 107-295 (116 STAT 2090), provides that in developing professional standards, the Secretary is authorized to consult with various organizations, including the U.S. Merchant Marine Academy's Global Maritime and Transportation School. Section 109(c)(2) authorizes the Secretary to provide such training at certain institutions, including the 6 State Maritime Academies and the U.S. Merchant Marine Academy. This provision is set forth at page 556, *supra*.

**MARAD Revision of Port Security Planning Guide.** Section 113 of Public Law 107-295 (116 STAT 2093), requires that the Secretary of Transportation, within three years of enactment, acting through the Maritime Administration and after consultation with the National Maritime Security Advisory Committee and the Coast Guard, to publish a revised version of the document entitled "Port Security: A National Planning guide", incorporating the requirements prescribed under Chapter 701 of Title 46, United States Code, as amended by this Act, and make the revised document available on the Internet. This provision is set forth at page 552, *supra*.

## **TITLE II - MARITIME POLICY IMPROVEMENT.**

**Vessel COASTAL VENTURE.** Section 202 of Public Law 107-295 (116 STAT 2093), amended Section 1120(g) of the Public Law 104-324, approved October 19, 1996 (110 STAT 3978), to deem the vessel COASTAL VENTURE (No. 971086), to have been constructed in the United States as of the date of its original delivery.

**American Merchant Marine Memorial Wall of Honor.** Section 203 of Public Law 107-295 (116 STAT 2093), authorized the Secretary of Transportation to make grants to the American Merchant Marine Veterans Memorial Committee for up to 50 percent of the cost to construct an addition to the American Merchant Marine Memorial Wall of Honor located at the Los Angeles Maritime Museum in San Pedro, California. For fiscal year 2003, \$500,000 is authorized for this purpose. This provision is set forth at page 510, *supra*.

**Discharge of Agricultural Cargo Residue.** Section 204 of Public Law 107-295 (116 STAT 2094), enacted 33 U.S.C. 1902a, that requires the discharge from a vessel of any agricultural cargo residue material in the form of hold washings to be governed exclusively under the provisions of MARPOLAnnex V (MARPOL V), as implemented by the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.). 33 U.S.C. 1902a is set forth at page 186, *supra*.

## **Recording and Discharging Notices of Claim of Maritime Lien.**

Section 205 of Public Law 107-295 (116 STAT 2095), amended the following provisions of law

to extend the current provision for preferred mortgages to a valid lien against a vessel not covered by a preferred mortgage: (1) 46 U.S.C. 31343, Recording and Discharging Notice of Claims of Maritime Lien; (2) 46 U.S.C. 31325, Preferred Mortgage Liens and Enforcement; (3) 46 U.S.C. 12111, Surrender and Invalidation of Certificates of Documentation; and (4) 46 U.S.C. 808, Registration, Enrollment, and Licensing of Vessels Purchases, Chartered, or Leased; Regulations; Coastwise Trade. Section 205 is effective on January 1, 2003.

R/V DAVIDSON Tonnage. Section 206 of Public Law 107-295 (116 STAT 2096), deems the research vessel DAVIDSON to be less than 100 gross tons, for purposes of applying the optional regulatory measurement under 46 U.S.C. 14305.

Miscellaneous Certificates of Documentation. Section 207 of Public Law 107-295 (116 STAT 2096) contains four separate provisions, to be effective January 03, 2003.

1. Jones Act Waiver for 27 Vessels. Section 207(a), provides that notwithstanding the Jones Act (Section 27 of the Merchant Marine Act, 1920), the Passenger Ship Act (46 U.S.C. 289), Coastwise Endorsements (46 U.S.C. 12106), and Fisheries Endorsements 12108), the Coast Guard is authorized to issue a certificate of documentation with a coastwise endorsement for the 27 vessels enumerated. Section 207(a) is set forth at page 285, *supra*.

2. Indirect Jones Act Waiver for 4 Vessels. Section 207(b), provides that the four enumerated vessels are deemed to be eligible within the meaning of Section 504(2) of Public Law 105-383, approved November 13, 1996 (112 STAT 3446). Section 207(b) is set forth at page 286,

*supra*

3. Jones Act Administrative Waivers. Section 207(c), consists of two clauses.

Section 207(c)(1), continues the procedure for the administrative process for Jones Act Waivers that expired on September 30, 2002. Title V of Public Law 105-383, (112 STAT. 3445), Administrative Process for Jones Act Waivers, consisting of Sections 501 through 506, generally authorized the Secretary to issue a certificate of documentation with a coastwise endorsement as a small passenger vessel or an uninspected passenger vessel for an eligible vessel authorized to carry no more than 12 passengers for hire. Section 505 is the Sunset Provision providing that the authority provided by Title V will generally terminate on September 30, 2002. Section 207(c)(1) of Public Law 107-295, repealed Section 505 of Public Law 105-383, and provides that this repeal shall have no effect on the validity of any certificate or endorsement issued under section 502 of Public Law 105-383, providing for the administrative waiver of the coastwise trade laws. Section 207(c)(2) of Public Law 107-295, amended Section 503 of Public Law 105-383, to substitute revocation for fraud in lieu of the previous provision. Title V of Public Law 105-383, as amended, is set forth at page 281, *supra*.

4. Jones Act waiver for the FOILCAT. Section 207(d) of Public Law 107-295, authorizes the Secretary of Transportation, notwithstanding the usual Jones Act laws, to issue a certificate of documentation with appropriate endorsement for the sole purpose of technology demonstrations (including transporting guests for such demonstration who have not contributed consideration for their passage) for the vessel FOILCAT (Official No. 1063892). Section 207(d) is set forth at page 286, *supra*.

**Inspection Exemption for VICTORY ships.** Section 208 of Public Law 107-295 (116 STAT. 2098), amended 46 U.S.C. 3302, by the addition of the SS RED OAK VICTORY, SS AMERICAN VICTORY, and LST-325, to the vessels the Secretary is authorized to exempt from the inspection requirements of Chapter 33 of title 46. Section 208 is set forth at page 509, *supra*.

**Documentation Exemption for Fireworks Barges.** Section 209 of Public Law 107-295 (116 STAT 2098), provides that notwithstanding the Jones Act (46 App. U.S.C. 883), and coastwise documentation requirements of 46 U.S.C. 12106, the Secretary of the department in which the Coast Guard is operating is authorized to provide coastwise privileges to the three specified barges to be used only as a floating platform for launching fireworks. Section 209 is set forth at page 286, *supra*.

**Dredging Exemption for the vessel EAGLE.** Section 210 of Public Law 107-295 (116 STAT 2098), provides that notwithstanding the Jones Act (46 App. U.S.C. 883) and Dredging Act (46 App. U.S.C. 292), the Coast Guard shall issue coastwise privileges for the vessel EAGLE (No. 1091389), if the vessel is: (1) owned or chartered by a State, etc.; (2) operated only in conjunction with (a) scour jet operations or (b) dredging services adjacent to facilities owned by the State, etc.; and (3) externally identified clearly as a vessel of that State, etc. Section 210 is set forth at page 287, *supra*.

**Exemption for ASPHALT COMMANDER to be Transferred Foreign.** Section 212 of Public Law 107-295 (116 STAT 2099), authorized the vessel ASPHALT COMMANDER (No. 663105) to be transferred to foreign registry or sold to a non-U.S. citizen and placed under a foreign registry.

**Exemption for Launch Barges.** Section 213 of Public Law 107-295 (116 STAT 2099), amended the launch barge proviso of the Jones Act, **and provided a qualified exception from that Act** for four launch barges. Section 213 is set forth at page 288, *supra*.

Section 213(a) authorizes, subject to Section 213(b), the following launch barges to engage in the coastwise trade to transport platform jackets from ports in the Gulf of Mexico to sites on the Outer Continental Shelf for completion of certain offshore projects: (1) The H-114, H-627, 1-650, and H-851 for the projects known as Atlantis, Thunderhorse, Holstein, and Mad Dog, and (2) The 1-600 for the projects known as Murphy Medusa, Dominion Devil's Tower, and Murphy Front Runner.

Section 213(b) grants priority for U.S.-built vessels as follows: "(b) Priority for U.S.-built Vessels. Subsection (a) shall not apply in instances where a United States-built, United States-documented vessel with the capacity to transport and launch the platform jacket involved or its components is available to transport that jacket or its components. In this section, the term "platform jacket" has the meaning given that term under the thirteenth proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as amended by subsection (c) of this section."

Section 213(c) amended the thirteenth proviso of the Jones Act to expand the definition of platform jacket to include, "any type of offshore drilling or production structure or components, including platform jackets, tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure) hull (including vertical legs and



connecting pontoons or vertical cylinder), tower and base sections of a platform jacket, jacket structures, and deck modules (known as 'topsides') of a hydrocarbon development and production platform." The thirteenth proviso of the Jones Act is set forth at page 264, supra.

**Exemption for Foreign-built Tankers/Delayed Vessel Delivery.** Section 214 of Public Law 107-295 (116 STAT 2100), generally authorizes the Secretary of Transportation, for a four year period, to waive the coastwise laws for foreign built self-propelled tank vessels under the enumerated circumstances related to the delivery from a United States shipyard of a comparable coastwise eligible self-propelled tank vessel. Section 214 is set forth at page 288, supra.

### **TITLE III - COAST GUARD PERSONNEL AND MARITIME SAFETY.**

**Extension of Territorial Sea for Vessel Bridge-to-Bridge Radiotelephone Act.** Section 321 of Public Law 107-295 (116 STAT. 2103), amended 33 U.S.C. 1203(b), to require foreign-flag vessels to monitor intership radio telephone frequencies when operating within the U.S. territorial sea between three and twelve miles offshore.

**Modification of Various Reporting Requirements/FMC.** Section 322(b) of Public Law 107-295 (116 STAT 2103), provides that Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) does not apply to the enumerated reports, including "(5) Activities of the Federal Maritime Commission. - Section 208 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1118)."

**Merchant Mariner Documents/Gambling Vessels.** Section 324 of Public Law 107-295 (116 STAT 2104), amended 46 U.S.C. 7302, and 46 U.S.C. 8701, to authorize the Secretary to issue an interim merchant mariner's document, valid for 120 days, to service personnel on passenger vessels not engaged in foreign commerce. Section 324 is set forth at page 495, supra.

**Vessel/Negligent Operation/Interference with Safe Operation/Penalty.** Section 325 of Public Law 107-295 (116 STAT. 2105), amended 46 U.S.C. 2302(a) to raise the maximum civil penalty from \$1,000 to \$5,000, for the negligent operation of a recreational vessel, or for interfering with the safe operation of a recreational vessel. The penalty for these actions with respect to a commercial vessel remains at \$25,000.

**Renewal of Advisory Groups.** Subtitle C-Renewal of Advisory Group, Sections 331 through 336 of Public Law 107-295 (116 STAT 2105), renews certain advisory groups, including the following: (a) Commercial Fishing Industry Vessel; (b) Houston-Galveston Navigation Safety; (c) Lower Mississippi River Waterway; (d) Navigation Safety; (e) National Boating Safety; and (f) Towing Safety.

**Prohibition on New Maritime User Fees.** Section 344 of Public Law 107-295 (116 STAT 2106), amended 46 U.S.C. 2110(k) to extend the expiration date for the prohibition of any new maritime user fees from September 30, 2001 to September 30, 2006.

### **TITLE IV - OMNIBUS MARITIME IMPROVEMENTS.**

**Inventory of Submarine Cable Vessels.** Section 403 of Public Law 107-295 (116 STAT 2114), requires the Secretary of Transportation, within 60 days after enactment and every six months thereafter, to publish in the Federal Register an up to date inventory of U.S. documented vessels,

200 feet or over, that have the capability to lay, maintain, or repair submarine cable. Section 403 is set forth at page 511, *supra*.

**Vessel Escort and Towing Assistance.** Section 404 of Public Law 107-295 (116 STAT 2114), generally requires that only a U.S. documented vessel may perform the prescribed vessel escort operations. The term "escort vessel" is defined, and the relationship with the Towing Statute (46 App. U.S.C. 316(a)) clarified. Note that Section 404 of Public Law 107-295 is similar to Section 1119 of Public Law 105-554, approved December 21, 2000 (114 STAT 2763A-209), the Consolidated Appropriations Act of 2001. Section 1119 has not been repealed. Both provisions are set forth at page 275, *supra*.

**Conforming References to the Former Merchant Marine & Fisheries Committee.** Section 408 of Public Law 107-295 (116 STAT. 2117), amended various provisions of law concerning the Coast Guard and maritime transportation by correcting references to the former Merchant Marine and Fisheries Committee of the House of Representatives, by substituting the Transportation and Infrastructure Committee. This included an amendment to Section 901g(b)(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241k(b)(3)).

**Forfeited Vessel/Fishery Endorsement.** Section 409 of Public Law 107-295 (116 STAT 2117), amended 46 U.S.C. 12108(a) to prohibit a vessel which has been forfeited to the United States for a crime from obtaining a fisheries endorsement. This section does not grant the Coast Guard new authority to seize or forfeit vessels.

**Death Gratuities to Coast Guard Auxiliaries.** Section 415 of Public Law 107-295 (116 STAT 2121), amended 14 U.S.C. 823a(b), to authorize the Coast Guard to pay death gratuities to personal representatives of Coast Guard Auxiliaries who die in the line of duty, to the same extent that death gratuities are paid on behalf of Federal Employees.

**Commercial Instruments/Electronic Filing.** Section 420 of Public Law 107-295 (116 STAT 2124), amended 46 U.S.C. 31321(a)(4), to generally remove the requirement for filing an original commercial instrument (i.e. ship mortgage) within ten days of the electronic filing of the instrument. 46 U.S.C. 31321 is set forth at page 404, *supra*.

**Recreational Vessels/Temporary Certificates of Documentation.** Section 422 of Public Law 107-295 (116 STAT 2125), amended 46 U.S.C. 12103(a), and added a new section 46 U.S.C. 12013a, to authorize the Secretary to issue temporary certificates of documentation, and to delegate to private third parties the authority to issue the certificates to recreational vessel. This provision is set forth at page 206, *supra*.

**Protection Against Discrimination of Seamen.** Section 428 of Public Law 107-295 (116 STAT 2127), amended 46 U.S.C. 2114(a) to expand the protection of seamen against discrimination to prohibit anyone to discharge or discriminate against any seaman who reports a violation of a maritime law to the Coast Guard or refuses to perform duties which he believes would result in his or another individual's injury. This provision is set forth at page 25, *supra*.

**Icebreaking Services.** Section 429 of Public Law 107-295 (116 STAT. 2127) prohibits the Commandant of the Coast Guard to decommission any WYTL-class harbor tugs unless he certifies to the appropriate Congressional committees that sufficient replacement capability has been procured by the Coast Guard to remediate any degradation in current icebreaking services.

Section 429 is set forth at page 512, *supra*.

**Pilot Liability Limitation.** Section 431 of Public Law 107-295 (116 STAT 2128), adds a new Section 2307 to Title 46, that limits the liability of pilots working in a Coast Guard Vessel Traffic Service while acting within the scope of their duties and under the supervision of a Coast Guard officer.

**MS GLOBAL EXPLORER.** Section 435 of Public Law 107-295 (116 STAT 2129) directs the Secretary of Transportation to amend the certificate of documentation of this vessel to state that it was built in 2002 in Gulfport, Mississippi.

**Aleutian Trade/Load Lines.** Section 436 of Public Law 107-295 (116 STAT 2129), amended 46 U.S.C. 5102(b)(5), providing that the provisions of Chapter 51, Load Lines, does not apply to certain fish tender vessels in this trade.

**Safety and Security of Ports and Waterways.** Section 443 of Public Law 107-295 (116 STAT 2132), amended Section 2(a) and 5(a) of the Ports and Waterways Safety Act (33 U. S. C. 1221 (a) & 1224(a)), to add the safety and security of United States ports and waterways to that Act's traditional focus on marine safety and environmental protection. 33 U.S.C. 1221 (a) & 1224(a) are set forth at page 553, *supra*.

**Prohibition on Navigation Fees.** Section 445 of Public Law 107-295 (116 STAT 2133), amended Section 4 of the Rivers and Harbors Appropriation Act of 1884 (33 U.S.C. 5), to generally prohibit any nonFederal interest from assessing or collecting any fee on vessels or water craft operating on navigable waters subject to the authority of the United States, or under the freedom of navigation of those waters. It does not prohibit those instances in which Federal law has permitted the imposition of fees and recognizes those circumstances under which non-Federal interests may charge reasonable port and harbor fees for services rendered.

**HOMELAND SECURITY ACT OF 2002.** Public Law 107-296, approved November 25, 2002 (116 STAT 2135), contains the following provisions of particular interest:

**Port Security/R & D.** Section 307(c) of Public Law 107-296 (116 STAT 2169), established the Acceleration Fund for Research and Development of Homeland Security Technologies, and authorized \$500 million of which 10% is "to carry out research and development of improved ports, waterways and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways and coastal security mission."

**Consultation with FAA.** Section 423(a) of Public Law 107-296 (116 STAT 2185), generally provides for consultation by the Department of Homeland Security with the FAA before any action is taken with respect to air carrier operations and safety. Maritime matters are not mentioned.

**Transfer of the Bureau of Customs.** Section 403 of Public Law 107-296 (116 STAT 2178), transfers the U.S. Customs Service from the Department of the Treasury to the Department of Homeland Security. Section 403 is set forth on page 574, *supra*.

Transfer of the U.S. Coast Guard. Section 888 of Public Law 107296 (116 STAT 2249), transferred the U.S. Coast Guard from the Department of Transportation to the Department of Homeland Security. Section 888 is set forth on page 575. *supra*.

**TERRORISM RISK INSURANCE ACT OF 2002.** Title I of Public Law 107-297, approved November 26, 2002 (116 STAT 2322), establishes a three-year Terrorism Insurance Program in the Department of Treasury, administered by the Secretary of the Treasury, to pay the Federal share of compensation of insured losses resulting from acts of terrorism. This provision is set forth at page 557, *supra*.

**BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 2003.** Public Law 107-314, approved December 2, 2002 (116 STAT 2458), contains the following provisions of particular interest.

**Navy Shipbuilding and Conversion.** Section 102(a)(3) of Public Law 107-314 (116 STAT 2472) authorized \$9,111,023,000 for this purpose.

**T-5 Tanker Operation.** Section 123 of Public Law 107-314 (116 STAT 2475), provides: "The Department of the Navy contract in effect on the date of the enactment of this Act for the operation of five Champion-class T-5 fuel tanker vessels shall continue in effect with respect to the operation of each such vessel until the completion of the term of the contract or, if sooner for any such vessel, until the vessel is no longer used for purposes of the Military Sealift Command or any other Navy purposes."

**National Defense Sealift Fund.** Section 302(2) of Public Law 107-314 (116 STAT 2506), authorized \$934,129,000 for this purpose. Section 302 is set forth at page 367, *supra*.

**Service Academies Enrollment.** Section 532 of Public Law 107-314 (116 STAT 2545), provides for a phased increase to 4,400 individuals in the authorized strengths for the Army, Navy, and Air Force Academies, and ROTC scholarship participants.

**Coast Guard National Defense Mission.** Section 923 of Public Law 107-314 (116 STAT 2623), requires the inclusion of such mission in future Quadrennial Defense Reviews.

**Sale of Navy Drydock YFD-69.** Section 1027 of Public Law 107-314 (116 STAT 2642), authorizes the sale of a Navy drydock to Portland Shipyard, LLC, the current user of the drydock. Section 1027 is set forth at page 398, *supra*.

## **TITLE XXXV -Maritime Administration.**

### **MARAD Authorization of Appropriations for Fiscal Year 2003.**

Section 3501 of Public Law 107-314, (116 STAT 2752), set forth at page 399, *supra*, provides:

"Funds are hereby authorized to be appropriated for fiscal year 2003, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

"(1) For expenses necessary for operations and training activities, \$93,132,000.

"(2) For expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), \$54,126,000, of which-

"(A) \$50,000,000 is for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

"(B) \$4,126,000 is for administrative expenses related to loan guarantee commitments under the program.

"(3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92-402 (as amended by this title), \$20,000,000.

Authority to Convey the NDRF Vessel USS SPHINX (ARL-24). Section 3502 of Public Law 107-314 (116 STAT 2752), generally authorizes the Secretary of Transportation, for a two year period, to transfer the USS SPHINX (ARL-24) from the National Defense Reserve Fleet to the Dunkirk Historical Lighthouse and Veterans Park Museum for use as a military museum. There are a number of conditions set forth in Section 3502. Section 3502 is set forth at page 300, *supra*.

Independent Analysis of Title XI Insurance Guarantee Applications. Section 3503 of Public Law 107-314 (116 STAT 2753), amended Section 1104A(d) & (f) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1274(d) & (f), to authorize the Secretary of Transportation to obtain an independent analysis of an application for a Title XI loan guarantee. 46 U.S.C. 1274(d), as amended. is set forth at page 136, *supra*.

**Artificial Reefs/Financial Assistance to States.** Section 3504(a) of Public Law 107-314 (116 STAT 2754), amended Public Law 92-402 (16 U.S.C. 1220 et seq.), as amended, to provide financial assistance to States to help them prepare obsolete vessels transferred from the National Defense Reserve Fleet. Section 3504(a) is set forth at page 317, *supra*.

Artificial Reefs/Environmental Best Management Practices. Section 3504(b) of Public Law 107-314 (116 STAT 2754), requires the Secretary of Transportation and the Administrator of the EPA to jointly develop environmental best management practices to be used in the preparation of vessels for use as artificial reefs. Section 3504(b) is set forth at page 317, *supra*.

Pilot Program on Export of Obsolete Vessels for Dismantlement and Recycling. Section 3504(c) of Public Law 107-314 (116 STAT 2755), generally requires the establishment of one or more pilot programs of not more than four vessels, to explore the feasibility and advisability of various alternatives for exporting obsolete NDRF vessels for dismantlement and recycling. Section 3504(c) is set forth at page 313, *supra*.

Statutory Construction of Section 3504 of Public Law 107-314. Section 3504(d) of Public Law 107-314 (116 STAT 2756), clarifies that Section 3504 does not establish a preference for the reefing or export of obsolete vessels in the NDRF over other disposal alternatives (such as domestic scrapping) available to the Secretary under Section 3502 of Public Law 106-398 (114 STAT 1654A-490). Section 3504(d) is set forth at page 318, *supra*.